IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1234 of 2005

In

C.A.No.317 of 2004

In

First Appeal No.90 of 2004

Shabir Hussein Fazale

Hussein Bohri and Anr. ..Applicants

V/s

Sou.Shubhangi Shashikant Danke ..Respondent

Shri Girish S. Godbole for Applicants

Shri Ajay Joshep for Respondent

CORAM:R.S.MOHITE,J.

DATED:12th August, 2005

P.C.:-

. Heard Advocate for the applicant.

. This is an applicatino for extension of time to pay Bhatta in First Appeal No.90 of 2004 and for setting aside the self operative order of dismissal of first appeal passed on 10-12-2004 for non payment of Bhatta.

It is seen that the present applicant filed First appeal and preferred Civil Application No.317 of 2004 in which Rule and ad-interim order was obtained on 25-10-2004. Thereafter he did not pay bhatta till 10-12-2004 when self operative order was passed. Advocate for the Applicant states that the vacation started on 24-12-2004 and continued till 8-1-2005. Even if this is a position there can not be excuse for not paying Bhata from 25-10-2004 till 10-12-2004 when self operative order was passed.

. In the interest of justice the appeal is restored to file. C.A. No.317 of 2004 is also restored.

. The Advocate for the Respondent opposing for any interim order in C.A. on merits and hence ad-interim relief will not operate pending the disposal of Civil Application..

. Civil Application will be heard and disposed of on merits.

. List C.A.No.317 of 2004 for hearing on 30-8-2005

(R.S.MOHITE,J.)